

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

JOSH QUAST d/b/a BUSTED
KNUCKLE CHOPPERS,

Plaintiff,

v.

RUBBER-SEAL PRODUCTS
COMPANY, *et al.*,

Defendants.

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CIVIL ACTION NO. H-11-3537

ORDER

The plaintiff, Josh Quast, has moved to remand, (Docket Entry No. 5), and the defendants, Rubber-Seal Products Company *et al.*, have moved to abate, (Docket Entry No. 7). As to the motion to abate, the defendants allege that Quast failed to provide the sixty-day notice of his lawsuit, brought under the Texas Deceptive Practices–Consumer Protection Act (“DTPA”). *See* TEX. BUS. & COM. CODE § 17.505(a). Quast did not provide notice of this lawsuit to the defendants until September 28, 2011. (Docket Entry No. 7, Ex. 1). Quast indicated to the defendants his intention not to object to the motion to abate. (Docket Entry No. 8, ¶ 1). In any event, Quast has not filed a controverting affidavit to the motion. *See* TEX. BUS. & COM. CODE § 17.505(d)(2). The motion to abate, (Docket Entry No. 7), is granted.

The abatement period concluded on November 28, 2011. *See* TEX. BUS. & COM. CODE 17.505(e). The defendants have asked that they have until December 12, 2011 to respond to the motion to remand. (Docket Entry No. 8). Quast has not indicated any opposition to this request.

Because of the date of this order, the defendants may have until **December 15, 2011** to respond to Quast's motion to remand. (Docket Entry No. 5).

SIGNED on December 12, 2011, at Houston, Texas.

Lee H. Rosenthal
United States District Judge